

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

JOHNNY WILLIAMS

PLAINTIFF

v.

CIVIL ACTION NO.: 4:20-CV-178-JMV

TOIMESHIA BURNETT

DEFENDANT

ORDER

Before the Court are Defendant's motion for an extension of time to comply with the Court's order [51] and Plaintiff's motion for contempt [53]. The motion for an extension of time [51], was filed on January 19, 2022, and Plaintiff's response in opposition [52] was filed on that same date. On January 20, 2022, Plaintiff filed his motion for contempt [53]. Defendant filed her response in opposition [54] on January 25, 2022, and Plaintiff filed a reply in support [55]. For the reasons explained in more detail below, the Court will grant Defendant's motion for an extension of time [51] in part. Defendant shall have until Monday, February 14, 2022, to provide responses to Plaintiff's interrogatories. The Court also finds that Plaintiff's motion for contempt [53] should be granted, but reserves its ruling on the sanctions for said contempt.

These pending motions relate to Defendant's failure to provide responses to Plaintiff's propounded interrogatories. The record reveals that the interrogatories were served with the state court complaint in this matter on or about September 15, 2020. On December 13, 2021, Plaintiff filed a motion to compel discovery responses [43]. Plaintiff submitted a Rule 37(a) affidavit attesting to Defendant's failure to provide discovery responses after extensive grants of accommodation and additional time [47]. On December 29, 2021, this Court found the motion to compel meritorious, and entered an order granting the motion to compel in part [49].

The Court ordered Defendant to pay Plaintiff's reasonable expenses, including attorneys' fees, which were incurred in making the Motion to Compel [43].¹ Further, the Court ordered Defendant to provide responses to the propounded interrogatories by Wednesday, January 19, 2022.

In her motion for an extension of time to comply with the Court's order, counsel for the Defendant detailed the extensive efforts that have been made to locate the Defendant, including the hiring of an investigator. [51] at ¶ 2. Further, Defendant's counsel provided that Ms. Burnett has also failed to respond to multiple inquiries from counsel and staff concerning the Court's order and compliance with same. [51] at ¶ 3. The Court also notes that the motion seeking an additional ten (10) days to secure Defendant's compliance with the Court's order was filed almost three (3) weeks ago, and to date, no notice of service of Defendant's interrogatory responses has been filed on the docket.

The Court notes that discovery in this case is not set to expire until March 18, 2022. Nonetheless, the Court finds that the Defendant's willful discovery violations in this case have been and continue to be egregious. It appears evident that the Defendant, Toimeshia Burnett, is knowingly refusing to comply with an order of this Court. It is for these reasons that the Plaintiff's motion for contempt [53] shall be granted. The Court reserves its ruling on the sanctions to be imposed for said contempt. In exercising its discretion, the Court will grant the Defendant until Monday, February 14th, 2022, to provide responses to Plaintiff's interrogatories.

THEREFORE, it is **ORDERED** that the Plaintiff's motion for contempt [53] is granted. The Court reserves its ruling on the sanctions for said contempt. Further, Defendant's motion for

¹ Plaintiff's counsel notified the Court that he would not be seeking reimbursement for fees and expenses incurred in bringing his motion to compel on or about January 10, 2022.

extension of time [51] is granted in part and denied in part. The Defendant shall have until Monday, February 14, 2022, to provide responses to Plaintiff's interrogatories.

SO ORDERED, this, the 8th day of February, 2022.

/s/ Jane M. Virden

UNITED STATES MAGISTRATE JUDGE